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OFFICE OF PETITIONS

In re Application of :
Chon Yie Lin et al :
Application No. 10/634,351 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 2002B107A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application. The decision mailed May 31, 2007 is vacated in favor of this decision on petition.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 5, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a).¹ Accordingly, the date of abandonment of this application is May 6, 2006.

The record discloses that a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed on August 2, 2006. The Notice of Allowability contains the following statement: "Authorization for this examiner's amendment was given in a telephone interview with Catherine L. Bell on July 20, 2006." The authorization for the examiner's amendment was given after expiration of the six-month statutory period provided for reply.

MPEP Section 706.07(II)(F), under Examiner's Amendments, states that an examiner's amendment may not be made more than six months

¹ At the time of filing of the amendment on May 5, 2006, a two-month extension of time was due. Office records fail to indicate that this fee was ever charged. Accordingly, as authorized, the \$450 two-month extension of time fee will be charged to petitioner's deposit account.


from the date of the final Office action, as the application would be abandoned at that point by operation of law. Further, interviews must be conducted within the six-month statutory period for reply. See MPEP 706.07(III)(K). As the authorization for the Examiner's Amendment was not given within the six-month statutory period provided for reply, this application became abandoned by operation of law on May 6, 2005.

This petition satisfies the requirements of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action of December 5, 2005 is accepted as being unintentionally delayed.

The refunded petition fee of \$1,500 will be charged back to petitioner's deposit account.

The file record discloses that a Request for Continued Examination was filed on October 10, 2006, prior to the November 2, 2006 date set in the Notice of Allowance and Fee(s) Due, mailed August 2, 2006, for payment of the issue fee. A non-final Office action was mailed on June 7, 2007. Failure to timely reply within the period set will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions